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CITATIONS

682680—63

In the Supreme Court of the United States

OCTOBER TERM, 1962

No. 464

UNITED STATES OF AMERICA, PETITIONER

v.

CARLOS MUNIZ AND HENRY WINSTON

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

REPLY BRIEF FOR THE UNITED STATES

I

THE LEGISLATIVE CONTEXT DISCLOSES NO INDICATION THAT CONGRESS INTENDED PRISONERS TO BE COVERED BY THE TORT CLAIMS ACT

1. As we have shown in our main brief (Gov. Br. 12–19), neither the face of the Federal Tort Claims Act nor its legislative history discloses a clear purpose on the part of Congress to include or to exclude prisoner claims, but a number of circumstances in the legislative context of the Act negate the likelihood that Congress intended it to embrace such claims.

Respondent Winston challenges these conclusions primarily by recourse to various theorems of statutory construction which, he says, prove Congress' intention to allow prisoner claims. The short answer to this branch of his argument is that the Court has already rejected these modes of construing the Tort Claims Act as unrealistic.

Thus, respondent Winston argues that the language of the statute is broad enough to cover the claims (Winston Br. 9); that, under the maxim *expressio unius est exclusio alterius*, the failure to include prisoner claims among the specific exceptions to the Act means that Congress intended to cover them (*ibid.*); and that, since each of six antecedent tort claims bills had contained a prisoner claims exception, its omission from the Act itself must be taken as indicating that such claims were meant to be embraced by the Act (*id.* at 13). Virtually identical contentions were made in *Feres* v. *United States*, 340 U.S. 135, and the Court, in holding that Congress could not have intended the Act to cover service-incident claims of military personnel, expressly rejected each of them (340 U.S. at 138–139), on the ground that the Act "should be construed to fit, so far as will comport with its words, into the entire statutory system of remedies against the Government to make a workable, consistent and equitable whole" (340 U.S. at 139).[1]

[1] Indeed, the reasons for applying respondent's arguments were stronger in the *Feres* situation than they are in the present case. For one thing, as the Court there noted (340 U.S. at 138), not only were the claims at issue there *not* among the express exceptions, but there *was* an express exception covering military claims arising out of combat. Moreover, all of

2. In addition to these arguments, respondent Winston seeks to show that, in passing the Federal Tort Claims Act, Congress was not only aware of, but actually adopted, the practice of the State of New York, which by judicial construction of its Court of Claims Act permitted (and still permits) suits against the State for prison-incident injuries (Winston Br. 13–18). This contention, which rests entirely on a short passage in a House report that makes no reference whatever to prisoner suits, is totally without foundation.

The report in question, H. Rep. No. 1287, 79th Cong., 1st Sess., p. 13, noted that "a number of the States have waived their governmental immunity against suit in respect to tort claims * * *" and that "[s]uch legislation does not appear to have had any detrimental or undesirable effect"; the report then went on briefly to summarize the waiver statutes of New York, California, Illinois and Arizona.[2] It is perfectly clear from its face that the purpose of this passage was simply to cite several examples of state waiver provisions. There is no indication that Congress had the slightest awareness of the general practice under any of these statutes, let alone such refinements as whether they had been construed as allowing prisoner suits; to "presume" such aware-

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the antecedent bills which contained prisoner claims exceptions were introduced at least 10 years before the passage of the Federal Tort Claims Act; surely no intent on the part of the 79th Congress can be inferred from its failure to enact provisions never introduced after the 74th Congress.

[2] The full text of this passage of the House report (which respondent Winston quotes only in part) appears at R. 56–57.

ness (see Winston Br. 15) would be in plain defiance of common sense and experience. See *Yates* v. *United States*, 354 U.S. 298, 309–310. Indeed, there is no more basis for concluding that Congress knew of and adopted the New York practice, which allows prisoner suits, than that it knew of and adopted the California or Arizona practice, which does not allow such suits, or the Illinois practice, which did not at that time.[3]

3. As we pointed out in our main brief (Gov. Br. 14–15, 16–17), the fact that Congress has authorized an administrative compensation plan covering certain prisoner injuries strongly indicates that Congress did not intend prisoner claims to be covered by the Act. Respondent Winston recognizes that the existence of such a plan in the military context was a factor in this Court's holding that military claims were not meant to be covered by the Act, see *Feres* v. *United States*, *supra*, 340 U.S. at 144–145; however, he attempts to distinguish that case by arguing that the Court's characterizations of the military compensation program—"comprehensive," "certain and uniform," "not * * * niggardly"[4]—do not apply to the prison compensation program (Winston Br. 20–21).

[3] We might also observe that, if Congress is chargeable with full knowledge of the New York practice, no doubt it was also aware that most claims in New York arose out of work injuries (see Gov. Br. 17, n. 9); this would sustain Congress in its judgment that a compensation scheme covering only work injuries would sufficiently cover meritorious prisoner claims, so that such a scheme should be exclusive (see pp. 4–8, *infra*).

[4] 340 U.S. at 140, 144, 145. The Court also described the military compensation scheme as "simple" and "not negligible," both of which would certainly fit the prison compensation scheme.

At the outset, it must be observed that there is a certain lack of perspective in any suggestion that a compensation plan for prisoners must be comparable to the one for soldiers in order to be worthy of consideration. It could scarcely be thought unnatural for Congress to reflect substantially greater magnanimity toward those serving and sacrificing for the country in the armed services than it does toward those whose offenses against society require their imprisonment. As this Court has observed, "Lawful incarceration brings about the necessary withdrawal or limitation of many privileges and rights, a retraction justified by the considerations underlying our penal system." *Price* v. *Johnston*, 334 U.S. 266, 285 (1948).

No doubt the prison compensation plan is less "comprehensive" than the military arrangement considered in the *Feres* case. And yet, as we noted in our main brief (Gov. Br. 16–17), it does cover the aspects of prison life in which most prisoners spend most of their waking time and in which most injuries are likely to occur: their employment "in any industry or in any work activity in connection with the maintenance or operation of the institution where confined" (18 U.S.C. (Supp. III) 4126).[5] It is relevant, too, in considering the comprehensiveness of the prison compensation plan, to note that it is broader than a tort

[5] As we stated in our main brief (Gov. Br. 16), the scope of the prison compensation scheme was enlarged in 1961. We note that the Court in the *Feres* case, in considering the military compensation scheme, took into account changes in that scheme enacted subsequent to the passage of the Federal Tort Claims Act. See 340 U.S. at 144, n. 12.

remedy; it is essentially a workmen's compensation program, presupposing liability on the part of the government without fault.[6]

Respondent Winston's contention that the prison compensation plan is "'niggardly' at best" (Winston Br. 21) falls, we believe, very wide of the mark. It is difficult to see how respondent can attack the program, as he does, on the ground that it allows no compensation where the prisoner has fully recovered by the time he is released (*ibid.*). The same is true, of course, of the military compensation program. The reason is obvious: the soldier and the prisoner are provided the food, shelter, clothing, medical care and other services they need while they are under the care of the government; it is only when they are still disabled upon release that they have any need for compensation.[7]

Nor can we follow respondent Winston's argument that, because "the *maximum* compensation which may be awarded on release is that provided in the Federal

[6] Nor is the prison compensation system substantially less "certain and uniform" than the military compensation system considered by the Court in the *Feres* case (Winston Br. 21). The prison compensation system is a firmly established program, and the statute and regulations under which it is administered provide reasonably certain and uniform standards for determining entitlement to compensation and the amount of any award. See 18 U.S.C. 4126; Inmate Accident Compensation Regulations, Regulations 10, 13, set forth in the Appendix, *infra*, pp. 4a–6a.

[7] Moreover, like the veteran, a prisoner who after release requires further medical treatment as a result of his work-related prison injury is eligible to apply for an additional award to cover the cost of such treatment, over and above his regular accident compensation. Regulation 17, Appendix, *infra*, p. 7a.

Employees' Compensation Act" (Winston Br. 21, emphasis his), the prison compensation plan is so "niggardly" that Congress must not have intended it to be exclusive—especially considering that, as we have pointed out (Gov. Br. 17), the government employees' compensation program *is* exclusive. It is highly improbable, we submit, that Congress, having been careful to provide that injured prisoners should not receive greater compensation than injured government employees, intended the prisoners to have a Tort Claims Act remedy unavailable to the employees.[8]

In short, we believe that the dimensions of the prison compensation plan enacted by Congress prior to the passage of the Tort Claims Act, and left untouched upon the passage of that Act, are such as clearly to indicate that Congress intended it to be the exclusive remedy for prisoner injuries.[9] That it is somewhat less generous than the administrative compensation schemes for soldiers and government employees does not, we think, undermine that conclusion. Moreover, the expansion of the prison compensation plan in 1961 demonstrates that Congress is very much awake to the problem of prisoner remedies and that it

[8] Equally without merit is respondent Winston's argument that using the minimum wage prescribed by the Fair Labor Standards Act as the wage base in calculating awards is somehow unreasonable (Winston Br. 21). The prison authorities were, we submit, entirely justified in selecting that established, uniform standard for assessing the earning capacities of prisoners when they are released.

[9] We recognize, of course, that neither of the respondents' injuries is covered by the prison compensation scheme; that fact, however, has little bearing on the question whether Congress intended the scheme to be exclusive.

is gradually and carefully enlarging the administrative program as experience dictates.

II

COVERAGE OF PRISONER CLAIMS WOULD SO INTERFERE WITH PRISON DISCIPLINE AND ADMINISTRATION AND SO UNDERMINE THE UNIFORM, FEDERAL CHARACTER OF THE PRISON SYSTEM THAT CONGRESS CANNOT HAVE INTENDED IT

This Court has held that, notwithstanding the breadth of the Tort Claims Act's language, its application to certain kinds of claims may produce an impact "so outlandish" (*Brooks* v. *United States,* 337 U.S. 49, 53), may lead to such "extreme results" (*United States* v. *Brown,* 348 U.S. 110, 112), that Congress will not be assumed to have intended such coverage. This approach is fully applicable to prisoner claims. As we have explained in detail in our main brief (Gov. Br. 19–41), coverage of prisoner claims by the Tort Claims Act would so undermine the uniformity and federal character of the federal prison system, would subject the administration of that system to such unwarranted judicial supervision, and would so interfere with the maintenance of prison order and discipline, that Congress cannot be thought to have intended such coverage—not, at any rate, "in the absence of express congressional command" (*Feres* v. *United States,* 340 U.S. 135, 146).

1. Respondent Winston's answer to the government's concern over the extreme results that would attend coverage of prisoner claims is that such fears are speculative. He argues (a) that States which

allow prisoner claims have experienced no such results, and (b) that, in any event, the "discretionary function" exception of 28 U.S.C. 2680(a) provides the government adequate protection. Neither answer, we submit, sufficiently disposes of the matter.

(*a*) We strongly doubt that State experience in allowing prisoner claims would be at all useful in assessing the consequences of permitting federal prisoners to sue under the Tort Claims Act. For one thing, the States that allow suits against themselves for prison-incident injuries have carefully restricted and specially adapted the remedy in such a way as to minimize the impact on prison administration and discipline. Thus, in New York, the only jurisdiction recognizing such suits at the time the Tort Claims Act was passed, suits are limited to a single tribunal, the Court of Claims, and may be filed only after the injured prisoner has been discharged (see Gov. Br. 36). In Illinois, suits are also limited to a single tribunal (also the Court of Claims); evidence is taken—at prison, if the plaintiff is in confinement—by a commissioner who later reports to the full court. See *Moore* v. *Illinois*, 21 Ill. C.C.R. 282. Under North Carolina practice, the state Industrial Commission sits as a court to consider tort claims against departments of the state government, with evidence being taken before a hearing examiner, N.C. Gen. Stats. §§ 143–291 to 143–300; no court has yet decided whether a prisoner still in confinement may sue (see Winston Br. 29, n. 29).

As we have observed, postponing suits until release tends to discourage false claims and to minimize the

impact of prisoner suits on prison administration and discipline (Gov. Br. 36). Limiting suits to a single tribunal tends to overcome the problem of uniformity, a problem that is in any event far less severe at the state level than at the federal level, since the state prison system will itself be wholly contained in a single State and will be governed by a uniform body of tort law. Even where suits are allowed during confinement, administrative and disciplinary problems are substantially reduced by having a flexible administrative type of procedure which permits such practices as the taking of evidence in prison.

Thus, we question whether the experience under these carefully circumscribed state remedies sheds any light on what would happen if prisoner suits were possible under the Federal Tort Claims Act, which contains none of these special limitations. Moreover, as we have already noted (Gov. Br. 36), the experience of other States which allow sheriffs and marshals to be sued for negligent care of prisoners held in local jails has no application to an integrated correctional system with a large permanent population of long-term prisoners, especially since suits will almost invariably be filed after release.

Finally, we question respondent Winston's basic premise. We are unaware of any evidence that prisoner suits against States and against local custodial authorities have in fact had no adverse impact upon state and local penal administration and discipline. Certainly the reported cases cannot be expected to reflect the difficulties that the prison authorities are experiencing (see R. 48). Even if state experience

under restricted statutes or in the context of jailer liability had any probative value here—which we question—there is, so far as we know, no basis for determining what that experience has been.

On what, then, is the government's concern over the impact of prisoner suits based? It is based on a realistic appraisal of the size, scope and complexity of the federal penal system; of the makeup of the federal prison population and of the known characteristics of many of its members; of experienced difficulties in achieving the proper balance between the maintenance of discipline and security and the accomplishment of rehabilitative objectives. In opposing prisoner suits under the Federal Tort Claims Act, the Department of Justice has been reflecting the considered and consistent judgment of the experienced Director and other officials of the Bureau of Prisons that tort claims suits for prison-incident injuries would have a severe and damaging impact upon the administration of the federal prison system.

(*b*) Both the court below (R. 36) and respondent Winston (Winston Br. 30-31) have suggested that the difficulties urged by the government can be largely obviated by recourse to the Tort Claims Act exception, 28 U.S.C. 2680(a), which provides that the Act shall not apply to "[a]ny claim * * * based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a federal agency or an employee of the Government, whether or not the discretion involved be abused." It is no doubt true that the discretionary function exception has application in the realm of prison administra-

tion, see *Morton* v. *United States*, 228 F. 2d 431 (C.A.D.C.), certiorari denied, 350 U.S. 975, just as it has with respect to the operation of federal institutions for the mentally ill, see *Smart* v. *United States*, 111 F. Supp. 907 (W.D. Okla.), affirmed, 207 F. 2d 841 (C.A. 10); *Dugan* v. *United States*, 147 F. Supp. 674 (D.D.C.); *White* v. *United States*, 205 F. Supp. 662 (E.D. Va.), appeal pending (C.A. 4).

However, the government's concern is not that it will be unable to defend against prisoner claims on the merits; the threat to prison discipline and administration stems largely from the possibility that prisoners will be able to file suit and bring their cases to trial. For even where the discretionary function exception is invoked, it is necessary, in most cases, to define through factual evidence the nature of the discretionary function involved. Thus, the complaint in the *Muniz* case (R. 65) raises claims that seem very likely to go to discretionary functions (relating as they do to the maintenance of internal order, discipline and security) and so may well be unsuccessful on the merits. But if Muniz can file his suit, obtain pre-trial discovery and go to trial, none of the problems foreseen by the government (see, *e.g.*, Gov. Br. 34–35, 40–41) will have been avoided, even if he loses. In short, whether the government ultimately prevails on the merits or not is relatively insignificant in relation to the disturbing effects of discovery and trial upon the relationship between prisoners and the custodians they are challenging.

2. Respondent Muniz devotes the bulk of his argument (Muniz Br. 5–16, 28–33) to attacking the premise underlying the government's contention that allowance of prisoner claims will undermine the uniform, federal character of the federal prison system—*i.e.*, that such suits would be governed by the tort law of the State in which the federal prison facility is located. We note that neither respondent Winston nor the court below questions this premise, and we submit that respondent Muniz' challenge is wholly without merit.

Respondent's argument is that "most of the Federal prisons" are located in federal enclaves, which are governed by federal law.[10] However, Congress may make state law applicable in enclaves (see Muniz Br. 10), and that is exactly what it has done by making "the law of the place where the act or omission occurred" govern in Tort Claims Act suits, and by not making provision for the applicability of any other law (cf. *United States* v. *Standard Oil Co.*, 332 U.S. 301, 309).[11]

Respondent Muniz also urges that federal statutes would prevail over state law in suits under the Act. It is no doubt true that a relevant federal statute should be given due application in a Tort Claims Act

[10] As the appendix to his brief discloses, some federal prisons are not in federal enclaves, and others are only partially so (Muniz Br. 28–33).

[11] We note that the Court in *Feres* v. *United States*, 340 U.S. 135, manifestly assumed that state law would govern Tort Claims Act suits arising on military reservations. See 340 U.S. at 142–143.

suit, but it will be the rare case where an Act of Congress so completely and specifically covers the allegedly tortious conduct as to render recourse to state law unnecessary. The statute cited by respondents, 18 U.S.C. 4042, is a good example. It imposes various "duties" on the Bureau of Prisons, but these are expressed in such general terms as to provide no aid whatever to a court endeavoring to determine the standard of care to which federal prison authorities should be held. Thus, federal courts hearing prisoner claims under the Tort Claims Act would have no choice but to apply state standards of due care and liability—necessarily at the expense of the uniformity and federal character of the federal prison system.

CONCLUSION

The answering arguments of the respondents only emphasize the fact that it is Congress, and Congress alone, that should decide what kind of remedies for federal prisoners are consistent with the unique relationship between such prisoners and the United States. If Congress should decide to authorize tort suits by prisoners, it might wish to adopt the carefully restricted and specially adapted state remedies to which respondent Winston has pointed. Or it may wish to enact legislation establishing detailed and specific federal standards to govern the conduct of federal penal authorities, a possibility suggested by respondent Muniz' argument. Until it makes a conscious choice, however, we believe it would be most unwise to assume that Congress would wish to expose

the federal prison system to the extreme results that would attend prisoner suits under the Federal Tort Claims Act.

Respectfully submitted.

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APRIL 1963.

APPENDIX

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL PRISON INDUSTRIES, INC.

Washington, D.C.

INMATE ACCIDENT COMPENSATION REGULATIONS

1. To carry out the intent of Congress in authorizing the payment of accident compensation to inmates or their dependents for injuries sustained while employed by Federal Prison Industries, Inc., or in any work activity in connection with the maintenance or operation of the institution where confined, and pursuant to Section 4126 of Title 18, United States Code, and authority delegated by the Attorney General and the Board of Directors of Federal Prison Industries, Inc., the following regulations are prescribed to insure complete reports covering all injuries and full information to permit prompt action on claims submitted.

ACTION TO BE TAKEN AND REPORTS TO BE SUBMITTED ON ALL INJURIES

MEDICAL ATTENTION

2. Whenever an inmate worker is injured while in the performance of assigned duty, regardless of how trivial the hurt may appear, he shall report the injury to his official superior who will take whatever action is necessary to secure for the injured such first aid, medical or hospital treatment as may be necessary for the proper treatment of the injury. Medical, surgical and hospital service will be furnished by the medical

officers of the institution. Refusal by an inmate worker to accept such medical, surgical, hospital or first aid treatment may cause forfeiture of any claim for accident compensation for disability resulting therefrom.

RECORD OF INJURY AND INITIAL CLAIM

3. After initiating necessary action for medical attention the work detail supervisor shall immediately secure a record of the cause, nature and extent of the injury, and shall see that the injured inmate submits within 48 hours FPI Form 45, entitled "Inmate Worker's Notice of Injury and Original Claim for Compensation and Medical Treatment." The names and testimony of all witnesses shall be secured and, if the injury resulted from the operation of mechanical equipment, an identifying description of the machine or instrument causing the injury shall be given.

REPORT OF INJURY

4. All injuries resulting in disability of the injured for work beyond the day, shift, or turn in which it occurs shall be reported by the inmate's work detail supervisor on Administrative Form 19, in accordance with instruction sheet, Administrative Form 19a. After review by the institution safety inspector, or his appointed equivalent, for completeness, the report shall be delivered to the Warden or Superintendent of the institution; and then forwarded promptly to the Safety Administrator in the Washington office, accompanied by FPI Form 45 executed by the injured inmate worker. All questions shall be answered in complete detail. The physician's statement must be secured on Administrative Form 19 whenever the injury is such as to require the attention of a physician.

In the case of an injury to an inmate sustained while employed in any work activity in connection with the maintenance or operation of the institution where confined, the reports and treatment of such injured inmate shall be made under the regulations in effect at the time of such injury and the reports as to treatment and the cause, nature and extent of the injury shall be made to comply as nearly as possible with the requirements of paragraphs 2, 3, and 4 of these regulations.

PRE-RELEASE CLAIM FOR COMPENSATION

5. As soon as release date is determined, but not in advance of thirty days prior to release date, each inmate injured in industries or on an institutional work assignment during his confinement shall be given FPI Form 43 Revised and advised of his rights to make out his claim for compensation. Every assistance shall be given him to properly prepare the claim. In each case a physical examination shall be given and a definite statement made as to the effect of the alleged injury on the inmate's earning capacity after release. Failure to submit to a final physical examination before release shall result in the forfeiture of all rights to compensation or future medical treatment. In each case of visible impairment, disfigurement, or loss of member, photographs shall be taken to show actual condition and shall be transmitted with FPI Form 43.

6. The claim, after preparation and execution by the inmate, shall be completed by the physician making the final examination and by the parole or social service officer and forwarded promptly to the Safety Administrator in the Washington office accompanied by, or reference made to, Form 19, Report of Institutional Injury and FPI Form 45, Inmate Worker's Notice of Injury and Original Claim.

REPORT OF RECURRENCE OF DISABILITY

7. When an inmate worker has been injured and has later returned to work and then subsequently there is a recurrence of disability from said injury, a complete report shall be made with appropriate reference to previous reports covering the initial injury.

REPORT OF DEATH

8. If an injury results in death before the report of injury on Administrative Form 19 has been forwarded to the Safety Administrator, the death shall be reported on FPI Form 43, which shall accompany the Report of Injury. If death results after the Report of Injury has been forwarded a report of the death on FPI Form 43 shall be sent at once to the Safety Administrator.

REPORT OF ACCIDENT PRONENESS

9. If an inmate worker is injured more than once in a comparatively short time and the circumstances of the injury indicate an awkwardness or ineptitude that in the opinion of his work supervisor implies a danger of further accidents in the tasks assigned, the inmate shall be relieved of the performance of the task, and assigned another task if permissible or a report of the circumstances shall be made to the Institution Safety Inspector and the Classification Committee with a request that the inmate be transferred to another assignment.

COMPENSATION FOR INJURIES

NON-COMPENSABLE INJURIES

10. Injuries sustained by inmate workers willfully or with intent to injure someone else, or injuries suffered in any activity not directly related to their work assignment are not compensable, and no claim for

compensation for such injuries will be considered. Disregard of safety rules and instructions, failure to use available safety clothing and equipment, or an act to make safety equipment inoperative shall result in a transfer to another assignment. Any injury resulting from willful violation of rules and regulations may prevent award of compensation.

COMPENSATION FOR LOST TIME

11. No accident compensation will be paid for compensable injuries while the injured inmate remains in the institution. However, inmates assigned to Industries will be paid for the number of regular work hours in excess of three consecutive inmate man-days they are absent from work because of injuries suffered while in performance of their work assignments. The rate of pay shall be the standard hourly rate for the grade, including longevity if applicable, regardless of the pay plan, but shall exclude any overtime or production bonus. No claim for compensation will be considered if full recovery occurs while the injured is in custody and no significant disability remains after release.

COMPENSATION AWARDS

12. The amount of accident compensation as authorized under Section 1 shall be determined at the time of release regardless of when during the periods of incarceration of the applicant the injury was sustained or of any payment made in lieu of regular earnings or any medical or surgical services furnished prior to such release.

ESTABLISHING THE AMOUNT OF THE AWARD

13. In determining the amount of accident compensation to be paid consideration will be given to the permanency and severity of the injury and its resulting effect on the earning capacity of the inmate in

connection with employment, after release. The provisions of the Federal Employee's Compensation Act shall be followed when applicable. The minimum wage prescribed by the Fair Labor Standards Act applicable at the time of release shall be used as the wage basis in determining the amount of such compensation. In no event shall compensation be paid in greater amount than that provided in the Federal Employee's Compensation Act. (Title 18, United States Code 4126).

TIME AND METHOD OF PAYMENT OF COMPENSATION CLAIM

14. Upon determination of the amount of compensation to be paid a copy of the award will be furnished the claimant and monthly payments will begin about the tenth day of the first month following the month in which the award is effective. The first payment is usually within 45 days of release from institution. Payments shall be made through the office of the United States Probation Officer of the district in which the claimant resides. Lump sum payments will be made only in exceptional cases where it is clearly shown to be beneficial and necessary for the support of the claimant or dependents.

15. When requested by the claimant and approved by the Corporation, accident compensation may be paid direct to dependents of the claimant. In all cases claimant must indicate in detail those persons who are dependent on him, their relationship and all facts as to residence, other income, etc., so that the Corporation will be able to determine to what extent they are dependent on the claimant.

COMPENSATION SUSPENDED BY MISCONDUCT

16. Awarded compensation shall be paid only so long as the claimant conducts himself or herself in a lawful manner and shall be immediately suspended

upon conviction of any crime, or upon incarceration in any jail, correctional, or penal institution. However, the Corporation may pay such compensation or any part of it to the inmate or any dependents of such inmate where and as long as it is deemed to be in the public interest.

MEDICAL TREATMENT REQUIRED FOLLOWING DISCHARGE

17. If medical or hospital treatment is required subsequent to discharge from the institution, for an injury sustained while employed by Federal Prison Industries, Inc., or on an institutional work assignment, claimant should advise the Commissioner of Industries and if the cost of such treatment is allowed by the Corporation advice to this effect and instructions for obtaining such service will be forwarded. The Corporation will under no circumstances pay the cost of medical, hospital treatment or any related expense not previously authorized by it.

CIVILIAN COMPENSATION LAWS DISTINGUISHED

18. Compensation awarded hereunder differs from awards made under civilian workmen's compensation laws in that hospitalization is usually completed prior to the inmate's release from the institution and, except for a three day waiting period, the inmate receives pay while absent from work. Other factors necessarily must be considered that do not enter into the administration of civilian workmen's compensation laws.

EMPLOYMENT OF ATTORNEYS

19. It is not necessary that claimants employ attorneys or others to effect collection of their claims, and under no circumstances will the assignment of any claim be recognized.

These regulations shall be effective as of September 26, 1961.

Approved this *1st* day of *February, 1962.*

JAMES V. BENNETT
Commissioner
Federal Prison Industries, Inc.